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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 LEO FANNON,

7 Petitioner,

8 v.

9 WASHINGTON STATE,

10 Respondent.

Case No. 17-cv-05790-BHS-TLF

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL

11 This matter comes before the Court on petitioner's motion for appointment of counsel.
12 Dkt. 2. Having carefully considered this motion and balance of the record, the Court finds it
13 should be denied at this time, without prejudice. The petitioner will be allowed to renew this
14 motion if, at a later time in the proceedings, the interests of justice would require appointment of
15 counsel.

16 "[T]he Sixth Amendment right to counsel does not apply in habeas corpus actions."
17 *Knaubert v. Goldsmith*, 791 F.2d 722, 728 (9th Cir. 1986); *see also Pennsylvania v. Finley*, 481
18 U.S. 551, 555 (1987) ("[T]he right to appointed counsel extends to the first appeal of right, and no
19 further."). Appointment of counsel is required "if necessary for the effective utilization of
20 discovery procedures . . . , or if an evidentiary hearing is required." *Weygandt v. Look*, 718 F.2d
21 952, 954 (9th Cir. 1983) (citing Rule 6(a) and Rule 8(c), 28 U.S.C. foll. § 2254); *see also Owino*
22 *v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).

1 A district court also may appoint counsel“under 18 U.S.C. § 3006A at any stage of the
2 case if the interest of justice so requires.” *Weygandt*, 718 F.2d at 954. In deciding whether to
3 appoint counsel, the Court“must evaluate the likelihood of success on the merits as well as the
4 ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues
5 involved.” *Id.*

6 Mr. Fannon has not shown at this stage of the proceedings that the interests of justice
7 require appointment of counsel. Indeed, the petition has not even been served yet. At this point
8 petitioner appears capable of articulating his claims pro se with sufficient adequacy.

9 Accordingly, petitioner’s motion for appointment of counsel (Dkt. 2) is DENIED, without
10 prejudice. The Clerk shall send a copy of this Order to the petitioner.

11 Dated this 10th day of October, 2017.

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15 Theresa L. Fricke
16 United States Magistrate Judge
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